

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-349-RJC-DCK**

JACQUELINE ALLEN BEY,

Plaintiff,

v.

**DAVID A. SIMPSON,
CITIMORTGAGE, INC,
JESSE B. CALDWELL, and
DOVER MORTGAGE COMPANY,**

Defendants.

ORDER

THIS MATTER is before the Court on its own motion. Plaintiff filed her Complaint on July 20, 2011. (Doc. No. 1). The case docket reflects that a summons was issued by the Clerk of the Court on July 20, 2011 for service of the Complaint on Defendants Jessie B. Caldwell, Citimortgage, Inc., Dover Mortgage Company and David A. Simpson. (Doc. No. 2). Defendants Jessie B. Caldwell and Citimortgage, Inc. were served with process, (Doc. Nos. 6; 9), and dismissed from this action on January 18, 2012. (Doc. No. 23). Plaintiff has not filed proof of service on Defendants Dover Mortgage Company or David A. Simpson.

Under Federal Rule of Civil Procedure 4(m), a defendant must be served within 120 days of the complaint being filed. FED. R. CIV. P. 4(m). Plaintiff has failed to do so. When a plaintiff fails to timely serve a defendant, the Court must dismiss the plaintiff's complaint against that defendant or order that service be made within a specified time. Before the Court dismisses, however, it must first notify the plaintiff of its intention to do so. On January 18, 2012, the Court ordered Plaintiff to show cause within 14 days why her case against Defendants

Simpson and Dover Mortgage Company should not be dismissed for failure to timely serve them. The time has now expired and Plaintiff has neither filed proof of service, nor provided the Court with any reason why her case against those defendants should not be dismissed. Plaintiff's claims against Defendants Simpson and Dover Mortgage Company, the only remaining Defendants in this action, are **DISMISSED**.

IT IS, THEREFORE, ORDERED that Plaintiff's Complaint, (Doc. No. 1), is **DISMISSED**.

Signed: February 8, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

